

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	20-MC-472 (VEC)
	:	
-against-	:	(Originally in Equity
	:	No. 35-261)
NATIONAL FOOD PRODUCTS	:	
CORPORATION, <i>et al.</i> ,	:	<u>ORDER</u>
	:	
Defendants.:	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on November 23, 2020, the United States of America filed a Motion to Terminate a Legacy Antitrust Judgment, *United States v. Nat'l Food Prods. Corp.*, No. 35-261 (S.D.N.Y. Mar. 4, 1926), Dkt. 1-2 (“Judgment”);¹

WHEREAS Federal Rule of Civil Procedure 60(b)(5) provides that “the court may relieve a party ... from a final judgement [when] applying it is prospectively no longer equitable,” Fed. R. Civ. P. 60(b)(5);

WHEREAS Defendant National Food Products Corporation appears to no longer exist, as a search of corporate records reveals that its corporate successor has gone bankrupt, Dkt. 1-1 at 10;

WHEREAS the individual Defendants are unlikely alive, given that the Judgment in their lawsuit was entered in 1926;

¹ The Court remains baffled as Judge Furman was in *U.S. v. Leibner*, 20-MC-65 and as I was in *U.S. v. Local 807 Int'l Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, et al.*, 20-MC-109, why this effort — to dismiss judgments that have been on the books for years and that are, as far as the Court can tell, neither helping nor harming competition — is a good expenditure of DOJ Antitrust attorney time or of judicial time.

WHEREAS on June 7, 2019, the United States posted the Judgment on its public website, noting its intention to terminate the Judgment and inviting public comment, Dkt. 1-1 at 11;

WHEREAS no members of the public commented on the Government's intention to terminate this Judgment, *id.*;

WHEREAS the Court finds that the Government has provided adequate notice to the public regrading its intent to seek termination of the judgment;

WHEREAS the Judgment's holding requires divestiture in competing industries and prohibits interlocking directorates between officers in competing industries, Dkt. 1-2; Dkt. 1-1 at 10;

WHEREAS those same purposes are included in the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1383 (codified at 15 U.S.C. § 18a);

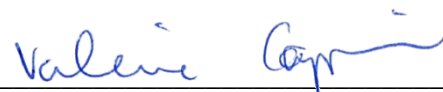
WHEREAS based on the foregoing, the Court finds that terminating this antitrust Judgment is consistent with the public interest, *see United States v. Western Elec. Co.*, 993 F.2d 1572, 1577 (D.C. Cir. 1993) (holding that a court "may reject an uncontested termination only if it has exceptional confidence that adverse antitrust consequences will result");

IT IS HEREBY ORDERED that the Judgment, *United States v. Nat'l Food Prods. Corp.*, No. 35-261 (S.D.N.Y. Mar. 4, 1926), Dkt. 1-2, is TERMINATED.

The Clerk of Court is respectfully directed to close the open motion at docket entry 1 and close this case.

SO ORDERED.

**Date: November 30, 2020
New York, NY**



**VALERIE CAPRONI
United States District Judge**